

### **REMARKS**

This application has been carefully reviewed in light of the non-final Office Action dated September 23, 2008. Claims 2 to 5, 36 to 39, and 41 have been cancelled, without prejudice or disclaimer of subject matter. Claims 1, 20, and 35 have been amended and claims 71 to 74 have been added. Support for the amendments and new claims may be found throughout Applicants' specification, for example, at page 17, line 5 through page 38, line 7. Claims 1, 6, 9 to 20, 35, 40, and 43 to 74 remain in the application, of which claims 1, 20, and 35 are the independent claims. Reconsideration and further examination are respectfully requested.

### **Interview Summary**

Initially, the Applicants' undersigned representative thanks Examiner Mansfield and Examiner Jarrett for the thoughtful courtesies and kind treatment afforded during the personal interview conducted on December 16, 2008. During the interview, Examiner Mansfield, Examiner Jarrett, and Applicants' representative discussed proposed amendments to the independent claims with respect to the cited references. This reply reflects the substance of the interview.

### **§ 101 Rejections**

Claims 35-41 and 43-70 were rejected as being directed to non-statutory subject matter. Applicants have amended claim 35 to recite that operations in claim 35 are performed "using a computer processor." Therefore, and as discussed in the personal interview of December 16, 2008, Applicants respectfully request reconsideration and withdrawal of this rejection.

### **§ 103 Rejections**

Claims 1-6, 9-20, 35-41, and 43-70 were rejected over Mechling et al., "Defining and Measuring Success In Canadian Public Sector Electronic Service Delivery," Issue Paper Prepared for Discussion and Debate at Lac Carling V, April 24, 2001 in view of Spears et al., "Citizens First 2000," Public Sector Service Delivery Council and The Institute of Public Administration of Canada, (2001) and in further view of Official Notice. Based on the

discussion in the personal interview conducted on December 16, 2008 and the following remarks, withdrawal of the rejections and further examination are respectfully requested.

Referring to particular claim language, independent claim 35, as amended, recites a method comprising accessing, from electronic storage, a public sector value model that corresponds to a public sector organization and that defines at least two outcome measures that each correspond to a non-monetary social benefit achieved by the public sector organization, weightings that correspond to each of the outcome measures and that define a relative weight given to the corresponding outcome measure, the weightings reflecting relative significance of the corresponding non-monetary social benefit to public value provided by the public sector organization, and at least one cost-effectiveness measure that relates to costs incurred by the public sector organization in achieving the outcomes and that includes reduction of variable cost, reduction of fixed cost, and increase in asset efficiency. The method also comprises computing, using the computer processor and applying the public sector value model, a performance value by removing impact of exogenous factors on performance measurements corresponding to the at least two outcome measures and applying the corresponding weightings to the performance measurements, the exogenous factors being factors that affect the performance measurements corresponding to the at least two outcome measures, but are not the responsibility of the public sector organization. The method further comprises computing, using the computer processor and applying the public sector value model, a cost-effectiveness value as a ratio of the computed performance value and an operating cost of the public sector organization determined using the obtained cost measurements, and determining, using the computer processor, a relative public performance measure of the public sector organization based on the computed performance value, an average performance value relevant to the public sector organization, the computed cost-effectiveness value, and an average cost-effectiveness value relevant to the public sector organization.

In addition, the method comprises generating, using the computer processor and based on the determined relative public performance measure of the public sector organization, a public sector value matrix that graphically reflects the computed performance value for the public sector organization relative to the average performance value and that graphically reflects the computed cost-effectiveness value for the public sector organization relative to the average cost-

effectiveness value. The method also comprises comparing, using the computer processor, the relative public performance measure of the public sector organization with performance trends and, based on the comparison of the relative public performance measure of the public sector organization with performance trends, identifying, using the computer processor, a recommendation on how the public sector organization can improve the relative public performance measure.

Independent claims 1 and 20, as amended, recite features similar to those discussed above with respect to independent claim 35, but do so in the context of a computer system and a computer program product.

The applied references are not seen to disclose, teach or suggest the foregoing features recited by the independent claims. In particular, as discussed in the personal interview of December 16, 2008, Mechling, Spears, and a proper combination of the two, each fail to describe or suggest computing, using the computer processor and applying the public sector value model, a performance value by removing impact of exogenous factors on performance measurements corresponding to the at least two outcome measures and applying the corresponding weightings to the performance measurements, computing, using the computer processor and applying the public sector value model, a cost-effectiveness value as a ratio of the computed performance value and an operating cost of the public sector organization determined using the obtained cost measurements, and determining, using the computer processor, a relative public performance measure of the public sector organization based on the computed performance value, an average performance value relevant to the public sector organization, the computed cost-effectiveness value, and an average cost-effectiveness value relevant to the public sector organization.

Based on these remarks and the discussion in the personal interview conducted on December 16, 2008, independent claims 1, 20, and 35 are believed to be allowable over the applied references. The other rejected claims and new claims in the application are each dependent on these independent claims and are thus believed to be allowable over the applied references for at least the same reasons. Because each claim is deemed to define additional aspects of the disclosure, however, the individual consideration of each claim on its own merits is respectfully requested.

In addition, Applicants submit that nothing in this response should be construed as a concession of the Official Notice taken in the Office Action. Under MPEP § 2144.03(A), official notice may only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. *See* MPEP § 2144.03(A). More to the point, an Examiner is prohibited from taking official notice of facts without citing a reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. *See id.* In the instant case, Applicants respectfully assert that the features cited by the Office Action as being obvious or well-known are not capable of instant and unquestionable demonstration. Having failed to locate these features after either conducting an exhaustive reference search or reviewing the Applicants cited references, Applicants respectfully assert that these features are ineligible for official notice, and further request that the Examiner provide documentary evidence if the rejection is to be maintained. *See* MPEP § 2133.03(C). Thus, to the extent necessary, Applicants traverse all of the Official Notice taken in the Office Action and respectfully request provision of a reference in the prior art, in the context of the pending claims, for the features rejected on the basis of Official Notice.

All of the pending issues have been addressed. However, the absence of a reply to a specific rejection, objection, issue, or comment, including the Office Action's characterizations of the reference, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Since the amendments made herein have been made solely in an effort to expedite advancement of this case, the Applicants reserves the right to prosecute the rejected claims in further prosecution of this or related applications.

No other matters being raised, it is believed that the entire application is fully in condition for allowance and such action is courteously solicited.

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Respectfully submitted,

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